

REMARKS/ARGUMENTS

After the foregoing Amendment, claims 25, 27, 29-32, 34, and 36-38 are currently pending in this application. Claims 25 and 32 are amended.

Claim Rejections - 35 USC §103

Claims 25, 29-32, and 36-38 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,324,184 to Hou et al. (hereinafter "Hou") in view of U.S. Patent No. 6,085,241 to Otis.

The Applicant respectfully disagrees.

Hou discloses a method for allocating uplink bandwidth to subscriber units. A MAC management entity maintains a historical record of bandwidth usage for each subscriber unit such that users with low usage levels are given a higher priority when requesting an otherwise limited bandwidth level (column 11, lines 50-55). The maximum bandwidth that a user is assigned is limited by comparing the assigned bandwidth to a ceiling value (column 11, lines 31-36 and 46-47). The subscriber units do not need to send a signal to the central controller to request bandwidth or report the subscriber unit buffer size (column 8, lines 34-36).

According to Hou, a traffic count is determined for each subscriber unit by counting the number of slots used in a control interval where the slot usage rate corresponds to a bandwidth (column 2, lines 7-12). In contrast to the present claims 25 and 32 as amended, Hou fails to teach "comparing a time allocation of

continuously used channel resources for each of the subscriber units against a time threshold and adjusting the priority level when the time threshold is exceeded". Instead, Hou is concerned with a total number of time slots (C(i)) actually used over a fixed interval to transmit upstream data (col. 9 lines 49-53). The ratio of used time slots over allocated time slots is compared to a utilization threshold T1 (col. 61-63). Hou does not teach anything about a user's continuous use of channel resources. It is implicitly understood that some of the allocated time slots (B(i)) are unused, by Hou's disclosure of a utilization ratio threshold of 85%. Also, Hou teaches determination of an allocation in terms of average data rate over a control interval (col. 10, lines 3-8), further suggesting a lack of concern for a threshold applied to a continuous usage of uplink channel resources.

Otis teaches a method for monitoring and controlling network-user bandwidth usage and costs, and a bandwidth manager for network segments comprising a pair of media access controllers (column 2, lines 19-53). The Examiner cites column 7, line 60 through column 8, line 8, of Otis as teaching that limiting maximum bandwidth allocations to particular connections that maintain excessive connection bandwidths over a prolonged period such that a single connection cannot abuse the overall connection bandwidth of the system to the charging of other connections (col. 7, line 60 – col. 8 line 8). However, Otis is not concerned with continuous bandwidth connection usage as recited in the amended claims 25 and 32. Instead, Otis teaches control of the "maximum duty cycle that can be elicited by any

one connection device”, which is the net amount of active usage over a period, not a period of continuous bandwidth usage. For example, if a user’s connection consisted of multiple cycling of active bandwidth usage and inactive bandwidth operation, Otis teaches that each of the periods for the active cycles would be added together to determine if the bandwidth usage has been exceeded, without regard for the maximum single block of time that the user was in the active mode. Thus, both Otis and Hou, treated individually and in combination, teach something different than what is recited in claims 25 and 32.

Because the combination of Hou and Otis fails to teach or suggest all of the elements of the amended claims 25 and 32, these claims are patentable over Hou and Otis. Claims 27, 29-31 and 36-38 depend from claim 25 and 32 and should therefore be patentable over the combination of Hou and Otis for the above provided reasons.

Claims 27 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hou in view of Otis as applied to claims 25 and 32 above, and further in view of U.S. Patent No. 6,473,793 to Dillon et al. (hereinafter "Dillon").

Claims 27 and 34 depend from claim 25 and 32 and should therefore be patentable over the combination of Hou and Otis for the above provided reasons.

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Application No.: 09/778,478

Conclusion

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephonic interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing amendment and remarks, the Applicant respectfully submits that the present application is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

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